

# SENATE BILL No. 165

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-2; IC 11-9; IC 11-13; IC 33-40-1-2; IC 35-38; IC 35-50-6-1.

**Synopsis:** Parole and clemency commission. Changes the name of the parole board to the parole and clemency commission. Makes conforming amendments.

**Effective:** July 1, 2010.

**Bray**

January 5, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## SENATE BILL No. 165

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 11-8-2-5, AS AMENDED BY P.L.77-2009,  
2       SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2010]: Sec. 5. (a) The commissioner shall do the following:  
4               (1) Organize the department and employ personnel necessary to  
5               discharge the duties and powers of the department.  
6               (2) Administer and supervise the department, including all state  
7               owned or operated correctional facilities.  
8               (3) Except for employees of the parole ~~board~~, **and clemency**  
9               **commission**, be the appointing authority for all positions in the  
10              department within the scope of IC 4-15-2 and define the duties of  
11              those positions in accord with IC 4-15-2.  
12              (4) Define the duties of a deputy commissioner and a  
13              superintendent.  
14              (5) Accept committed persons for study, evaluation,  
15              classification, custody, care, training, and reintegration.  
16              (6) Determine the capacity of all state owned or operated  
17              correctional facilities and programs and keep all Indiana courts



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1 having criminal or juvenile jurisdiction informed, on a quarterly  
2 basis, of the populations of those facilities and programs.

3 (7) Utilize state owned or operated correctional facilities and  
4 programs to accomplish the purposes of the department and  
5 acquire or establish, according to law, additional facilities and  
6 programs whenever necessary to accomplish those purposes.

7 (8) Develop policies, programs, and services for committed  
8 persons, for administration of facilities, and for conduct of  
9 employees of the department.

10 (9) Administer, according to law, the money or other property of  
11 the department and the money or other property retained by the  
12 department for committed persons.

13 (10) Keep an accurate and complete record of all department  
14 proceedings, which includes the responsibility for the custody and  
15 preservation of all papers and documents of the department.

16 (11) Make an annual report to the governor according to  
17 subsection (c).

18 (12) Develop, collect, and maintain information concerning  
19 offenders, sentencing practices, and correctional treatment as the  
20 commissioner considers useful in penological research or in  
21 developing programs.

22 (13) Cooperate with and encourage public and private agencies  
23 and other persons in the development and improvement of  
24 correctional facilities, programs, and services.

25 (14) Explain correctional programs and services to the public.

26 (15) As required under 42 U.S.C. 15483, after January 1, 2006,  
27 provide information to the election division to coordinate the  
28 computerized list of voters maintained under IC 3-7-26.3 with  
29 department records concerning individuals disfranchised under  
30 IC 3-7-46.

31 (b) The commissioner may:

32 (1) when authorized by law, adopt departmental rules under  
33 IC 4-22-2;

34 (2) delegate powers and duties conferred on the commissioner by  
35 law to a deputy commissioner or commissioners and other  
36 employees of the department;

37 (3) issue warrants for the return of escaped committed persons (an  
38 employee of the department or any person authorized to execute  
39 warrants may execute a warrant issued for the return of an  
40 escaped person);

41 (4) appoint personnel to be sworn in as correctional police  
42 officers; and

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(5) exercise any other power reasonably necessary in discharging the commissioner's duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 2. IC 11-8-2-8, AS AMENDED BY P.L.246-2005, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) All officers and employees of the department, members of the parole ~~board~~, **and clemency commission**, the commissioner, any deputy commissioner, and any superintendent, are within the scope of IC 4-15-2.

(b) IC 11-10-5 applies to teachers employed under that chapter, notwithstanding IC 4-15-2.

(c) The department shall cooperate with the state personnel department in establishing minimum qualification standards for employees of the department and in establishing a system of personnel recruitment, selection, employment, and distribution.

(d) The department shall conduct training programs designed to equip employees for duty in its facilities and programs and raise their level of performance. Training programs conducted by the department need not be limited to inservice training. They may include preemployment training, internship programs, and scholarship programs in cooperation with appropriate agencies. When funds are appropriated, the department may provide educational stipends or tuition reimbursement in such amounts and under such conditions as may be determined by the department and the personnel division.

(e) The department shall conduct a training program on cultural diversity awareness that must be a required course for each employee of the department who has contact with incarcerated persons.

(f) The department shall provide six (6) hours of training to employees who interact with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities concerning the interaction, to be taught by persons approved by the

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1 secretary of family and social services, using teaching methods  
 2 approved by the secretary of family and social services and the  
 3 commissioner. The commissioner or the commissioner's designee may  
 4 credit hours of substantially similar training received by an employee  
 5 toward the required six (6) hours of training.

6 (g) The department shall establish a correctional officer training  
 7 program with a curriculum, and administration by agencies, to be  
 8 determined by the commissioner. A certificate of completion shall be  
 9 issued to any person satisfactorily completing the training program. A  
 10 certificate may also be issued to any person who has received training  
 11 in another jurisdiction if the commissioner determines that the training  
 12 was at least equivalent to the training program maintained under this  
 13 subsection.

14 SECTION 3. IC 11-9-1-1 IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) There is established, as a  
 16 division of the department, the parole ~~board~~, and **clemency**  
 17 **commission**, consisting of five (5) members appointed by the governor,  
 18 not more than three (3) of whom may be affiliated with the same  
 19 political party. Members are appointed for a term of four (4) years. A  
 20 vacancy occurring before the expiration of a term shall be filled by the  
 21 governor for the remainder of the term. In the event of a temporary  
 22 inability to act of any member, the governor may appoint a person  
 23 qualified under this section to act in ~~his~~ **the member's** place during the  
 24 continuance of the inability. Members may be reappointed. They may  
 25 be removed by the governor for cause after an opportunity to be heard  
 26 by the governor upon due notice.

27 (b) To qualify for membership a person must:

28 (1) hold at least a bachelor's degree from an accredited college or  
 29 university; or

30 (2) have at least ten (10) years of law enforcement experience;  
 31 and must have the skill, training, or experience to analyze questions of  
 32 law, administration, and public policy. Members shall devote full time  
 33 to their duties, and are entitled to a salary to be determined by the state  
 34 budget agency with the approval of the governor. The governor shall  
 35 designate one (1) of the members to serve as chairman.

36 SECTION 4. IC 11-9-1-2 IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The parole ~~board~~ and  
 38 **clemency commission** shall:

39 (1) organize the division and employ personnel as are needed to  
 40 properly discharge the functions of the ~~board~~, **parole and**  
 41 **clemency commission**;

42 (2) make parole release and revocation decisions under

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IC 11-13-3 and IC 35-50-6-1;

(3) make pardon, clemency, reprieve, and remission recommendations to the governor under IC 11-9-2;

(4) collect, develop, and maintain statistical information concerning its services and decisions;

(5) keep records of its official actions and make them accessible according to law;

(6) cooperate with public and private agencies, local communities, and private groups and individuals for the development and improvement of its services;

(7) explain its functions to the public; and

(8) make an annual report to the governor by September 1 of each year containing a description of its operations for the preceding fiscal year ending June 30, an evaluation of its effectiveness, any recommendations for statutory, budgetary, or other changes considered necessary to improve its effectiveness, and any other information required by law.

(b) The parole ~~board~~ **and clemency commission** may:

(1) conduct inquiries, investigations, and reviews and hold hearings to properly discharge its functions;

(2) issue subpoenas, enforceable by action in circuit and superior courts, to compel any person to appear, give sworn testimony, or produce documentary evidence relating to any matter under inquiry, investigation, hearing, or review;

(3) administer oaths and take testimony of persons under oath;

(4) request from any public agency assistance, services, and information that will enable it to properly discharge its functions;

(5) enter, without notice, premises within the department's control, to confer with any committed person;

(6) adopt, under IC 4-22-2, rules to properly discharge its functions; and

(7) exercise any other power necessary in discharging its duties and powers.

SECTION 5. IC 11-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Whenever the parole ~~board~~ **and clemency commission** is conducting an inquiry, investigation, hearing, or review, that function may be delegated to one (1) or more members of the parole ~~board~~ **and clemency commission**.

(b) If one (1) or more member acts on behalf of the ~~board~~ **parole and clemency commission** that member or employee may exercise all the powers of the parole ~~board~~ **and clemency commission** except the power to render a final decision as to any matter. The members shall

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1 instead, upon completion of the inquiry, investigation, hearing, or  
 2 review, file with the ~~board~~ **parole and clemency commission** the  
 3 complete record of the proceedings together with ~~his~~ **the member's**  
 4 findings, conclusions, and recommended decision. The ~~board~~ **parole**  
 5 **and clemency commission** shall, based upon the record and the  
 6 findings, conclusions, and recommendations, render a final decision.

7 SECTION 6. IC 11-9-1-4 IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2010]: Sec. 4. All rules adopted by the parole  
 9 ~~board~~ **and clemency commission** and in effect on October 1, 1980,  
 10 continue in effect until altered by the parole ~~board~~, **and clemency**  
 11 **commission**, according to IC 4-22-2, under rule-making authority  
 12 given by ~~IC 11-9-1-4~~ **this article**.

13 SECTION 7. IC 11-9-1-5 IS ADDED TO THE INDIANA CODE  
 14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 15 1, 2010]: **Sec. 5. After June 30, 2010, a reference to the parole**  
 16 **board in a statute, a rule, or other document is considered a**  
 17 **reference to the parole and clemency commission.**

18 SECTION 8. IC 11-9-2-1 IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2010]: Sec. 1. An application to the governor  
 20 for commutation of sentence, pardon, reprieve, or remission of fine or  
 21 forfeiture shall be filed with the parole ~~board~~, **and clemency**  
 22 **commission**. The application must be in writing and signed by the  
 23 person seeking gubernatorial relief or by a person on ~~his~~ **the**  
 24 **applicant's** behalf. The ~~board~~ **parole and clemency commission** may  
 25 require the applicant to furnish information, on forms provided by the  
 26 parole ~~board~~, **and clemency commission**, that it considers necessary  
 27 to conduct a proper inquiry and hearing regarding the application.

28 SECTION 9. IC 11-9-2-2 IS AMENDED TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) As used in this section,  
 30 "victim" means a person who has suffered direct harm as a result of a  
 31 violent crime (as defined in IC 5-2-6.1-8).

32 (b) The parole ~~board~~ **and clemency commission** shall submit to the  
 33 governor its recommendation regarding an application for commutation  
 34 of sentence, pardon, reprieve, or remission of fine or forfeiture. Before  
 35 submitting its recommendation, the parole ~~board~~ **and clemency**  
 36 **commission** shall do all of the following:

37 (1) Notify:

38 (A) the sentencing court;

39 (B) the victim of the crime for which the person was convicted  
 40 (or the next of kin of the victim if the victim is deceased or  
 41 incompetent for any reason), unless the victim has made a  
 42 written request not to be notified; and

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- 1 (C) the prosecuting attorney of the county where the  
 2 conviction was obtained.
- 3 (2) Conduct an investigation, which must include the collection  
 4 of records, reports, and other information relevant to  
 5 consideration of the application.
- 6 (3) Conduct a hearing where the petitioner and other interested  
 7 persons are given an opportunity to appear and present  
 8 information regarding the application. The hearing may be  
 9 conducted in an informal manner without regard to formal rules  
 10 of evidence.
- 11 (c) The notice to a victim or the next of kin of a victim that is sent  
 12 under subsection (b)(1) must comply with the requirements for notices  
 13 to victims that are established under IC 11-13-3-3.
- 14 SECTION 10. IC 11-13-3-2 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Release on parole  
 16 and discharge of an offender sentenced for an offense under IC 35-50  
 17 shall be determined under IC 35-50-6.
- 18 (b) Parole and discharge eligibility for offenders sentenced for  
 19 offenses under laws other than IC 35-50 is as follows:
- 20 (1) A person sentenced upon conviction of a felony to an  
 21 indeterminate term of imprisonment is eligible for consideration  
 22 for release on parole upon completion of ~~his~~ **the person's**  
 23 minimum term of imprisonment, less the credit time ~~he~~ **the**  
 24 **person** has earned with respect to that term.
- 25 (2) A person sentenced upon conviction of a felony to a  
 26 determinate term of imprisonment is eligible for consideration  
 27 for release on parole upon completion of one-half (1/2) of ~~his~~ **the**  
 28 **person's** determinate term of imprisonment or at the expiration of  
 29 twenty (20) years, whichever comes first, less the credit time ~~he~~  
 30 **the person** has earned with respect to that term.
- 31 (3) A person sentenced upon conviction of first degree murder or  
 32 second degree murder to a term of life imprisonment is eligible  
 33 for consideration for release on parole upon completion of twenty  
 34 (20) years of time served on the sentence. A person sentenced  
 35 upon conviction of a felony other than first degree murder or  
 36 second degree murder to a term of life imprisonment is eligible  
 37 for consideration for release on parole upon completion of fifteen  
 38 (15) years of time served on the sentence. A person sentenced  
 39 upon conviction of more than one (1) felony to more than one (1)  
 40 term of life imprisonment is not eligible for consideration for  
 41 release on parole under this section. A person sentenced to a term  
 42 of life imprisonment does not earn credit time with respect to that

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term.

(4) A person sentenced upon conviction of a misdemeanor is not eligible for parole and shall, instead, be discharged upon completion of ~~his~~ **the person's** term of imprisonment, less the credit time ~~he~~ **the person** has earned with respect to that term.

(c) A person whose parole is revoked may be reinstated on parole by the parole ~~board~~ **and clemency commission** any time after the revocation, regardless of whether the offender was sentenced under IC 35-50 or another law. The parole ~~board~~ **and clemency commission** may adopt, under IC 4-22-2, rules ~~and regulations~~ regarding eligibility for reinstatement.

SECTION 11. IC 11-13-3-3, AS AMENDED BY P.L.173-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole ~~board~~ **and clemency commission** shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole ~~board~~ **and clemency commission** members. If one (1) or more of the members conduct the hearing on behalf of the parole ~~board~~ **and clemency commission**, the final decision shall be rendered by the full parole ~~board~~ **and clemency commission** based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole ~~board~~ **and clemency commission** shall order an investigation to include the collection and consideration of:

- (1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;
- (2) official reports of the person's history of criminality;
- (3) reports of earlier parole or probation experiences;
- (4) reports concerning the person's present commitment that are relevant to the parole release determination;
- (5) any relevant information submitted by or on behalf of the person being considered; and
- (6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the

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department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

- (1) to be discharged from imprisonment;
- (2) to be released on parole under IC 35-50-6-1;
- (3) to have a parole release hearing under this chapter;
- (4) to have a parole violation hearing;
- (5) an escaped committed offender; or
- (6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

- (1) at least forty (40) days before a discharge, release, or hearing occurs; and
- (2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not

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1 have access to the name and address of a victim and a witness. Upon  
 2 the filing of a motion by any person requesting or objecting to the  
 3 release of victim information, witness information, or both that is  
 4 retained by the department, the court shall review the information that  
 5 is the subject of the motion in camera before ruling on the motion.

6 (g) The notice required under subsection (c) must specify whether  
 7 the prisoner is being discharged, is being released on parole, is being  
 8 released on lifetime parole, is having a parole release hearing, is having  
 9 a parole violation hearing, or has escaped. The notice must contain the  
 10 following information:

- 11 (1) The name of the prisoner.
- 12 (2) The date of the offense.
- 13 (3) The date of the conviction.
- 14 (4) The felony of which the prisoner was convicted.
- 15 (5) The sentence imposed.
- 16 (6) The amount of time served.
- 17 (7) The date and location of the interview (if applicable).

18 (h) The parole ~~board~~ **and clemency commission** shall adopt rules  
 19 under IC 4-22-2 and make available to offenders the criteria considered  
 20 in making parole release determinations. The criteria must include the:

- 21 (1) nature and circumstances of the crime for which the offender  
 22 is committed;
- 23 (2) offender's prior criminal record;
- 24 (3) offender's conduct and attitude during the commitment; and
- 25 (4) offender's parole plan.

26 (i) The hearing prescribed by this section may be conducted in an  
 27 informal manner without regard to rules of evidence. In connection  
 28 with the hearing, however:

- 29 (1) reasonable, advance written notice, including the date, time,  
 30 and place of the hearing shall be provided to the person being  
 31 considered;
- 32 (2) the person being considered shall be given access, in accord  
 33 with IC 11-8-5, to records and reports considered by the parole  
 34 board in making its parole release decision;
- 35 (3) the person being considered may appear, speak in the person's  
 36 own behalf, and present documentary evidence;
- 37 (4) irrelevant, immaterial, or unduly repetitious evidence shall be  
 38 excluded; and
- 39 (5) a record of the proceeding, to include the results of the parole  
 40 ~~board's~~ **and clemency commission's** investigation, notice of the  
 41 hearing, and evidence adduced at the hearing, shall be made and  
 42 preserved.

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(j) If parole is denied, the parole ~~board~~ **and clemency commission** shall give the person written notice of the denial and the reasons for the denial. The parole ~~board~~ **and clemency commission** may not parole a person if it determines that there is substantial reason to believe that the person:

- (1) will engage in further specified criminal activity; or
- (2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole ~~board~~ **and clemency commission** shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the ~~board~~ **parole and clemency commission** may conduct a hearing earlier than five (5) years after denial of parole if the ~~board~~ **parole and clemency commission**:

- (1) finds that special circumstances exist for the holding of a hearing; and
- (2) gives reasonable notice to the person being considered for parole.

(l) The parole ~~board~~ **and clemency commission** may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the ~~board~~ **parole and clemency commission** is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), the ~~board~~ **parole and clemency commission** shall order and consider a community investigation, which must include an investigation and report that substantially reflects the attitudes and opinions of:

- (1) the community in which the crime committed by the offender occurred;
- (2) law enforcement officers who have jurisdiction in the community in which the crime occurred;
- (3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and
- (4) friends or relatives of the offender.

If the ~~board~~ **parole and clemency commission** reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the ~~board~~ **parole and clemency commission** may use a community investigation prepared for an earlier parole hearing to comply with this subsection.

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1 However, the ~~board~~ **parole and clemency commission** shall accept  
 2 and consider any supplements or amendments to any previous  
 3 statements from the victim or the victim's relatives or friends.

4 (n) As used in this section, "victim" means a person who has  
 5 suffered direct harm as a result of a violent crime (as defined in  
 6 IC 5-2-6.1-8).

7 SECTION 12. IC 11-13-3-4, AS AMENDED BY P.L.111-2009,  
 8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2010]: Sec. 4. (a) A condition to remaining on parole is that  
 10 the parolee not commit a crime during the period of parole.

11 (b) The parole ~~board~~ **and clemency commission** may also adopt,  
 12 under IC 4-22-2, additional conditions to remaining on parole and  
 13 require a parolee to satisfy one (1) or more of these conditions. These  
 14 conditions must be reasonably related to the parolee's successful  
 15 reintegration into the community and not unduly restrictive of a  
 16 fundamental right.

17 (c) If a person is released on parole, the parolee shall be given a  
 18 written statement of the conditions of parole. Signed copies of this  
 19 statement shall be:

- 20 (1) retained by the parolee;
- 21 (2) forwarded to any person charged with the parolee's
- 22 supervision; and
- 23 (3) placed in the parolee's master file.

24 (d) The parole ~~board~~ **and clemency commission** may modify parole  
 25 conditions if the parolee receives notice of that action and had ten (10)  
 26 days after receipt of the notice to express the parolee's views on the  
 27 proposed modification. This subsection does not apply to modification  
 28 of parole conditions after a revocation proceeding under section 10 of  
 29 this chapter.

30 (e) As a condition of parole, the parole ~~board~~ **and clemency**  
 31 **commission** may require the parolee to reside in a particular parole  
 32 area. In determining a parolee's residence requirement, the parole ~~board~~  
 33 **and clemency commission** shall:

- 34 (1) consider:
  - 35 (A) the residence of the parolee prior to the parolee's
  - 36 incarceration; and
  - 37 (B) the parolee's place of employment; and
- 38 (2) assign the parolee to reside in the county where the parolee
- 39 resided prior to the parolee's incarceration unless assignment on
- 40 this basis would be detrimental to the parolee's successful
- 41 reintegration into the community.

42 (f) As a condition of parole, the parole ~~board~~ **and clemency**

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**commission** may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole ~~board~~ **and clemency commission** by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole ~~board~~ **and clemency commission**:

- (1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

- (A) participate in a treatment program for sex offenders approved by the parole board; and
- (B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

- (i) receives the parole ~~board's~~ **and clemency commission's** approval; or
- (ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

- (A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;
- (B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole ~~board~~ **and clemency commission**;
- (C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;
- (D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;
- (E) require a parolee who is a sex offender to consent:
  - (i) to the search of the sex offender's personal computer at any time; and

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(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) prohibit the sex offender from:

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole ~~board~~ **and clemency commission** may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole ~~board~~ **and clemency commission** allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole ~~board~~ **and clemency commission** shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole ~~board~~ **and clemency commission** may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole ~~board~~ **and clemency commission**:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole ~~board~~ **and clemency commission** may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole ~~board~~ **and clemency commission** may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the

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1 parole board prohibits a parolee convicted of an offense under  
 2 IC 35-46-3 from having direct or indirect contact with an individual,  
 3 the parole **board and clemency commission** may also prohibit the  
 4 parolee from having direct or indirect contact with any animal  
 5 belonging to the individual.

6 (m) A parolee may be responsible for the reasonable expenses, as  
 7 determined by the department, of the parolee's participation in a  
 8 treatment or other program required as a condition of parole under this  
 9 section. However, a person's parole may not be revoked solely on the  
 10 basis of the person's inability to pay for a program required as a  
 11 condition of parole under this section.

12 SECTION 13. IC 11-13-3-5, AS AMENDED BY P.L.46-2008,  
 13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2010]: Sec. 5. (a) The period of parole for offenders sentenced  
 15 for offenses under laws other than IC 35-50 is as follows:

16 (1) A person released on parole from an indeterminate term of  
 17 imprisonment remains on parole until the expiration date of the  
 18 term of imprisonment, except that the parole **board and clemency**  
 19 **commission** may discharge the person from that term any time  
 20 after the person's release on parole.

21 (2) A person released on parole from a determinate term of  
 22 imprisonment remains on parole until the determinate term  
 23 expires, except that the parole **board and clemency commission**  
 24 may discharge the person from that term any time after the  
 25 person's release on parole.

26 (3) A person released on parole from a term of life imprisonment  
 27 remains on parole for life, except that the parole **board and**  
 28 **clemency commission** may discharge the person at any time after  
 29 the person's release on parole.

30 (b) When parole is terminated by discharge, the parole **board and**  
 31 **clemency commission** shall enter an order discharging the person from  
 32 parole and term of imprisonment. A copy of the order shall be given to  
 33 the discharged person.

34 SECTION 14. IC 11-13-3-6 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The department  
 36 shall supervise and assist persons on parole. Its duties in this regard  
 37 include:

38 (1) establishing methods and procedures for parole  
 39 administration, including investigation, supervision, workloads,  
 40 recordkeeping, and reporting;

41 (2) providing information to and otherwise assisting the parole  
 42 **board and clemency commission** in making parole decisions;

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- (3) assisting persons in preparing parole release plans;
- (4) providing employment counseling and assistance in job and residential placement;
- (5) providing family and individual counseling and treatment placement;
- (6) providing financial counseling;
- (7) providing vocational and educational counseling placement;
- (8) supervising and assisting out of state parolees accepted under an interstate compact;
- (9) assisting the parole ~~board~~ **and clemency commission** in transferring supervision of a parolee to another jurisdiction;
- (10) notifying the parole ~~board~~ **and clemency commission** of any modification in the conditions of parole considered advisable;
- (11) notifying the parole ~~board~~ **and clemency commission** when a violation of parole occurs; and
- (12) cooperating with public and private agencies and with individual citizens concerned with the treatment or welfare of parolees, and assisting the parolee in obtaining services from those agencies and citizens.

(b) Courts, probation officers, and other public officials shall cooperate with the department in obtaining information relating to persons committed to the department.

(c) The department shall cause the name of any person released on parole to be entered into the Indiana data communications system (IDACS).

SECTION 15. IC 11-13-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) An employee of the department assigned to supervise and assist parolees may:

- (1) execute warrants issued by the parole ~~board;~~ **and clemency commission;**
- (2) serve orders, subpoenas, and notices issued by the parole ~~board;~~ **and clemency commission;**
- (3) conduct investigations necessary to the performance of ~~his~~ **the employee's** duties;
- (4) visit and confer with any person under ~~his~~ **the employee's** supervision, even when that person is in custody;
- (5) act as a probation officer if requested by the appropriate court and if that request is approved by the department;
- (6) search a parolee's person or property if ~~he~~ **the employee** has reasonable cause to believe that the parolee is violating or is in imminent danger of violating a condition to remaining on parole;
- (7) arrest a parolee without a warrant if ~~he~~ **the employee** has

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reasonable cause to believe that the parolee has violated or is about to violate a condition to remaining on parole and that an emergency situation exists, so that awaiting action by the parole **board and clemency commission** under section 8 of this chapter would create an undue risk to the public or to the parolee; and (8) exercise any other power reasonably necessary in discharging ~~his~~ **the employee's** duties and powers.

(b) An employee of the department assigned to supervise and assist parolees is not considered a law enforcement officer under IC 5-2-1 or IC 35-41-1.

SECTION 16. IC 11-13-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) If an employee of the department assigned to supervise and assist parolees believes that a parolee has violated a condition to remaining on parole, ~~he~~ **the employee** may submit a written report of the violation to the parole ~~board~~ **and clemency commission**. After considering the report and making any further investigation it considers appropriate, the parole ~~board~~ **and clemency commission** may:

- (1) dismiss all further proceedings on the alleged violation;
- (2) instruct the employee to handle the matter informally;
- (3) request the parolee to meet informally with the parole ~~board~~ **and clemency commission** to review ~~his~~ **the parolee's** parole obligations; or
- (4) intensify parole supervision and reporting.

(b) Upon a showing of probable cause to believe the parolee violated a condition to remaining on parole, the chairman (or a member of the parole ~~board~~ **and clemency commission** designated by the chairman to act in the absence of the chairman) may issue an order for the parolee to appear for a revocation hearing on the alleged violation.

(c) Upon a showing of probable cause to believe the parolee violated a condition to remaining on parole, the chairman (or a member of the parole ~~board~~ **and clemency commission** designated by the chairman to act in the absence of the chairman) may issue a warrant for the arrest and confinement of the parolee pending a preliminary hearing. An employee of the department or any person authorized to execute warrants may execute the warrant.

(d) Upon a showing of probable cause to believe that an alleged parole violator has fled the state, the chairman (or a member of the parole ~~board~~ **and clemency commission** who is designated by the chairman to act in the absence of the chairman) may:

- (1) issue a warrant for the arrest and confinement of the parolee;
- and

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(2) order that the parolee be returned to the state;  
to ensure the appearance of the parolee at a parole revocation hearing.

(e) If the parole ~~board~~ **and clemency commission** issues an order, under subsection (b), for the parolee to appear for a revocation hearing, the parolee shall be given written notice of:

- (1) the date, time, and place of the hearing;
- (2) the condition alleged to have been violated;
- (3) the procedures and rights applicable to that hearing; and
- (4) the possible sanctions if a violation is found.

(f) If the parole ~~board~~ **and clemency commission** issues a warrant, under subsection (c), for the arrest and confinement of the parolee pending a preliminary hearing, the parolee shall be given written notice of:

- (1) the date, time, and place of the hearing;
- (2) the condition alleged to have been violated;
- (3) the procedures and rights applicable to the hearing;
- (4) ~~his~~ **the parolee's** right to a revocation hearing and the procedures and rights applicable to that hearing if probable cause is found to exist; and
- (5) the possible sanctions if a violation is found at a revocation hearing.

(g) The issuance of an order to appear or arrest warrant under this section tolls the period of parole until the parole ~~board's~~ **and clemency commission's** final determination of the charge. However, the tolled period shall be restored if there is a finding of no violation, if a finding of a violation is later overturned, or if the parole violation charge is dismissed.

SECTION 17. IC 11-13-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) Parole revocation hearings shall be conducted as follows:

(1) A parolee who is confined due to an alleged violation of parole shall be afforded a parole revocation hearing within sixty (60) days after the parolee is made available to the department by a jail or state correctional facility, if:

- (A) there has been a final determination of any criminal charges against the parolee; or
- (B) there has been a final resolution of any other detainers filed by any other jurisdiction against the parolee.

(2) A parolee who is not confined and against whom is pending a charge of parole violation shall be afforded a parole revocation hearing within one hundred eighty (180) days after the earlier of:

- (A) the date an order was issued for the parolee's appearance

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at a parole revocation hearing; or

(B) the date of the parolee's arrest on the parole violation warrant.

The revocation hearing shall be conducted by at least one (1) member of the parole ~~board~~, **and clemency commission**, and the purpose of the hearing is to determine whether a violation of a condition to remaining on parole has occurred and, if so, the appropriate action. In connection with the hearing, the parolee is entitled to those procedural safeguards enumerated in section 9(a) of this chapter. The parolee may offer evidence in mitigation of the alleged violation.

(b) If it is determined from the evidence presented that the parolee did not commit a parole violation, the charge shall be dismissed.

(c) If it is determined that the parolee did violate parole, the parole ~~board~~ **and clemency commission** may continue parole, with or without modifying the conditions, or revoke the parole and order the parolee imprisoned on either a continuous or intermittent basis. If, however, the violation is the commission of a new felony, the parole ~~board~~ **and clemency commission** shall revoke the parole and order continuous imprisonment.

(d) The parolee shall be provided with a written statement of the reasons for the action taken under subsection (c).

(e) Unless good cause for the delay is established in the record of the proceeding, the parole revocation charge shall be dismissed if the revocation hearing is not held within the time established by subsection (a).

SECTION 18. IC 11-13-9-2, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for twenty-five (25) consecutive years, the department shall:

(1) identify the inmate to the parole ~~board~~, **and clemency commission**; and

(2) provide the parole ~~board~~ **and clemency commission** with the inmate's offender progress report.

SECTION 19. IC 11-13-9-3, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. Upon receipt of the material described in section 2 of this chapter, the parole ~~board~~ **and clemency commission** shall set a hearing to determine whether the circumstances warrant the inmate's discharge from the custody of the department.

SECTION 20. IC 11-13-9-4, AS ADDED BY P.L.119-2008,

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SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. The parole ~~board~~ **and clemency commission** shall consider all relevant factors in determining whether the inmate is to be discharged under this chapter and must consider a community investigation report submitted to the parole ~~board~~ **and clemency commission**. The parole ~~board~~ **and clemency commission** shall give special consideration to an inmate who demonstrates each of the following:

- (1) A good conduct history during confinement.
- (2) Proof that the inmate will have suitable living quarters in a community if the inmate is discharged.
- (3) Proof that one (1) or more employers in the area in which the inmate would reside if discharged have offered to employ the inmate for at least thirty (30) hours a week on the same terms as the employer employs other employees.
- (4) Proof that the inmate:
  - (A) is at least a high school graduate; or
  - (B) has obtained:
    - (i) a general equivalency degree; or
    - (ii) a state of Indiana general educational development (GED) diploma.

SECTION 21. IC 11-13-9-5, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If the parole ~~board~~ **and clemency commission** determines that the inmate:

- (1) has been properly rehabilitated; and
  - (2) has suitable plans to carry out if discharged;
- the parole ~~board~~ **and clemency commission** shall discharge the inmate from the custody of the department. An inmate who is released from confinement under this subsection must be placed on parole as described in subsection (b).

(b) An inmate who is discharged from the department under this section shall be placed on parole as follows:

- (1) An inmate who is required to be placed on parole for the remainder of the inmate's life under IC 35-50-6-1(e) shall be placed on parole for the remainder of the inmate's life.
- (2) An inmate who is:
  - (A) not an inmate described in subdivision (1); and
  - (B) not required to serve a period of probation;
 shall be placed on parole for two (2) years.

SECTION 22. IC 11-13-9-6, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2010]: Sec. 6. If the parole ~~board~~ **and clemency commission** denies an inmate's request to be discharged under this chapter, the inmate may petition for a new review not earlier than one (1) year after the parole ~~board~~ **and clemency commission** denies the request.

SECTION 23. IC 11-13-9-7, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. The parole ~~board~~ **and clemency commission** or the department shall notify a registered crime victim in accordance with IC 11-8-7-2 if an inmate is discharged under this chapter.

SECTION 24. IC 33-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The state public defender shall represent a person who is:

(1) confined in a penal facility in Indiana or committed to the department of correction due to a criminal conviction or delinquency adjudication; and

(2) financially unable to employ counsel;  
in a postconviction proceeding testing the legality of the person's conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent a person who is committed to the department of correction due to a criminal conviction or delinquency adjudication, and who is financially unable to employ counsel, in proceedings before the department of correction or parole ~~board~~ **and clemency commission**, if the right to legal representation is established by law.

(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, a modification, or a reversal of law, or that for any other reason is without merit.

(d) This section does not prohibit an offender from proceeding on the offender's own behalf or otherwise refusing the services of the state public defender.

SECTION 25. IC 35-38-1-29, AS ADDED BY P.L.216-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. (a) This section applies only to a sexually violent predator, including a person who is a sexually violent predator by operation of law for committing an offense under IC 35-38-1-7.5(b).

(b) If a court imposes a sentence on a person described in subsection (a) that does not involve a commitment to the department of correction, the court shall order the parole ~~board~~ **and clemency commission** to place the person on lifetime parole and supervise the person in the same manner that the parole ~~board~~ **and clemency commission**

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supervises a sexually violent predator who has been released from imprisonment and placed on lifetime parole under IC 35-50-6-1(e).

(c) If a person described in subsection (b) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole ~~board~~ and **clemency commission** may:

(1) supervise the person while the person is being supervised by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole ~~board's~~ and **clemency commission's** supervisory responsibility during the period in which the other supervising agency is required to supervise the person;

in accordance with IC 35-50-6-1(g).

SECTION 26. IC 35-38-2-2.5, AS AMENDED BY P.L.216-2007, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.5. (a) As used in this section, "offender" means an individual convicted of a sex offense.

(b) As used in this section, "sex offense" means any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Child molesting (IC 35-42-4-3).

(4) Child exploitation (IC 35-42-4-4(b)).

(5) Vicarious sexual gratification (IC 35-42-4-5).

(6) Child solicitation (IC 35-42-4-6).

(7) Child seduction (IC 35-42-4-7).

(8) Sexual battery (IC 35-42-4-8).

(9) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(10) Incest (IC 35-46-1-3).

(c) A condition of remaining on probation or parole after conviction for a sex offense is that the offender not reside within one (1) mile of the residence of the victim of the offender's sex offense.

(d) An offender:

(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the offender intends to reside during the period of probation:

(A) at the time of sentencing if the offender will be placed on probation without first being incarcerated; or

(B) before the offender's release from incarceration if the offender will be placed on probation after completing a term of incarceration; or

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(2) who will be placed on parole shall provide the parole ~~board~~  
**and clemency commission** with the address where the offender  
 intends to reside during the period of parole.

(e) An offender, while on probation or parole, may not establish a  
 new residence within one (1) mile of the residence of the victim of the  
 offender's sex offense unless the offender first obtains a waiver from  
 the:

(1) court, if the offender is placed on probation; or

(2) parole ~~board~~, **and clemency commission**, if the offender is  
 placed on parole;

for the change of address under subsection (f).

(f) The court or parole ~~board~~ **and clemency commission** may waive  
 the requirement set forth in subsection (c) only if the court or parole  
~~board~~, **and clemency commission**, at a hearing at which the offender  
 is present and of which the prosecuting attorney has been notified,  
 determines that:

(1) the offender has successfully completed a sex offender  
 treatment program during the period of probation or parole;

(2) the offender is in compliance with all terms of the offender's  
 probation or parole; and

(3) good cause exists to allow the offender to reside within one (1)  
 mile of the residence of the victim of the offender's sex offense.

However, the court or parole ~~board~~ **and clemency commission** may  
 not grant a waiver under this subsection if the offender is a sexually  
 violent predator under IC 35-38-1-7.5 or if the offender is an offender  
 against children under IC 35-42-4-11.

(g) If the court or parole ~~board~~ **and clemency commission** grants a  
 waiver under subsection (f), the court or parole ~~board~~ **and clemency**  
**commission** shall state in writing the reasons for granting the waiver.  
 The court's written statement of its reasons shall be incorporated into  
 the record.

(h) The address of the victim of the offender's sex offense is  
 confidential even if the court or parole ~~board~~ **and clemency**  
**commission** grants a waiver under subsection (f).

SECTION 27. IC 35-38-2-2.6, AS ADDED BY P.L.173-2006,  
 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2010]: Sec. 2.6. (a) As a condition of remaining on probation  
 or parole after a conviction for stalking (IC 35-45-10-5), a court may  
 prohibit a person from residing within one thousand (1,000) feet of the  
 residence of the victim of the stalking for a period that does not exceed  
 five (5) years.

(b) A person:

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(1) who will be placed on probation shall provide the sentencing court and the probation department with the address where the person intends to reside during the period of probation:

(A) at the time of sentencing if the person will be placed on probation without first being incarcerated; or

(B) before the person's release from incarceration if the person will be placed on probation after completing a term of incarceration; or

(2) who will be placed on parole shall provide the parole ~~board~~ **and clemency commission** with the address where the person intends to reside during the period of parole.

(c) A person, while on probation or parole, may not reside within one thousand (1,000) feet of the residence of the victim of the stalking unless the person first obtains a waiver under subsection (d) from the:

(1) court, if the person is placed on probation; or

(2) parole ~~board~~, **and clemency commission**, if the person is placed on parole.

(d) The court or parole ~~board~~ **and clemency commission** may waive the requirement set forth in subsection (c) only if the court or parole ~~board~~, **and clemency commission**, at a hearing at which the person is present and of which the prosecuting attorney has been notified, determines that:

(1) the person is in compliance with all terms of the person's probation or parole; and

(2) good cause exists to allow the person to reside within one thousand (1,000) feet of the residence of the victim of the stalking.

(e) If the court or parole ~~board~~ **and clemency commission** grants a waiver under subsection (d), the court or parole ~~board~~ **and clemency commission** shall state in writing the reasons for granting the waiver. The court's written statement of its reasons shall be incorporated into the record.

(f) The address of the victim of the stalking is confidential even if the court or parole ~~board~~ **and clemency commission** grants a waiver under subsection (d).

SECTION 28. IC 35-38-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. If the results of the postconviction DNA testing and analysis are not favorable to the person who was convicted of the offense, the court:

(1) shall dismiss the person's petition; and

(2) may make any further orders that the court determines to be appropriate, including any of the following:

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(A) An order providing for notification of the parole ~~board~~ and clemency commission or a probation department.

(B) An order requesting that the petitioner's sample be added to the Indiana data base established under IC 10-13-6.

SECTION 29. IC 35-50-6-1, AS AMENDED BY P.L.216-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole ~~board~~, and clemency commission;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if the sentence included a period of probation.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from that term by the parole ~~board~~, and clemency commission. In any event, if the person's parole is not revoked, the parole ~~board~~ and clemency commission shall discharge the person after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole ~~board~~ and clemency commission may reinstate the person on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender (as defined in IC 11-8-8-4.5) completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5;

(2) has been convicted of murder (IC 35-42-1-1); or

(3) has been convicted of voluntary manslaughter (IC 35-42-1-3).

When a person described in this subsection completes the person's

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fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a person described in subsection (e) and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a person described in subsection (e) and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a person described in subsection (e) who was convicted in Indiana, including:

- (1) lifetime parole (as described in subsection (e)); and
- (2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole ~~board~~ **and clemency commission** may:

- (1) supervise the person while the person is being supervised by the other supervising agency; or
- (2) permit the other supervising agency to exercise all or part of the parole ~~board's~~ **and clemency commission's** supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole ~~board~~ **and clemency commission**:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole ~~board~~ **and clemency commission**.

(h) The parole ~~board~~ **and clemency commission** is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole ~~board~~ **and clemency commission** shall recommence its supervision of a person on lifetime parole.

(i) If a court orders the parole ~~board~~ **and clemency commission** to place a sexually violent predator whose sentence does not include a commitment to the department of correction on lifetime parole under

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1 IC 35-38-1-29, the parole ~~board~~ **and clemency commission** shall place  
2 the sexually violent predator on lifetime parole and supervise the  
3 person in the same manner in which the parole ~~board~~ **and clemency**  
4 **commission** supervises a sexually violent predator on lifetime parole  
5 whose sentence includes a commitment to the department of correction.

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